

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 329**

Citations Affected: IC 6-9-25.

Synopsis: Henry County food and beverage tax. Conference committee report for ESB 329. Extends until December 31, 2015 (instead of December 31, 2004), Henry County's authority to pay for capital improvements with food and beverage tax revenues or to issue bonds or enter into leases or other obligations payable from food and beverage tax revenues. Provides that a member of the capital improvements committee may be reappointed upon the expiration of the member's term (current law requires the member to be reappointed). Specifies that the county may use the food and beverage tax revenues on a pay-as-you-go basis to undertake capital improvements and may pledge other available revenues to the payment of bonds payable from the food and beverage tax. Provides that the bonds may be issued for a term of not more than 20 years, with the term including any refunding bonds. Deletes an incorrect reference to the use of money in the county's food and beverage tax receipts fund for the operating expenses of projects (which is prohibited by another provision in current law). **(This conference committee report: (1) deletes the changes made in the House and returns the bill to the Senate passed version by abolishing the capital improvements committee and the county food and beverage tax council in Henry County on January 1, 2016 (instead of making them permanent), restoring current law that permits rescission of the Henry County food and beverage tax by ordinance (instead of providing that the tax terminates after the retirement of debt payable from the tax), and deleting SECTIONS 5 through 19 of the bill concerning food and beverage taxes in Avon, Martinsville, Wayne County, and Monroe County; and (2) deletes an incorrect reference to the use of money in the county's food and beverage tax receipts fund for the operating expenses of projects (which is prohibited by another provision in current law).)**

Effective: December 31, 2004 (retroactive).

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 329 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-9-25-1 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]: Sec. 1. (a)
- 4 This chapter applies to a county having a population of more than
- 5 forty-seven thousand (47,000) but less than fifty thousand (50,000).
- 6 (b) The county described in subsection (a) is unique because:
- 7 (1) governmental entities and nonprofit organizations in the
- 8 county have successfully undertaken cooperative efforts to
- 9 promote tourism and economic development; and
- 10 (2) several unique tourist attractions are located in the county,
- 11 including:
- 12 (A) the Indiana basketball hall of fame;
- 13 (B) the Wilbur Wright birthplace memorial; and
- 14 (C) a historic gymnasium.
- 15 (c) The presence of these unique attractions in the county has:
- 16 (1) increased the number of visitors to the county;
- 17 (2) generated increased sales at restaurants and other retail
- 18 establishments selling food in the county; and
- 19 (3) placed increased demands on all local governments for
- 20 services needed to support tourism and economic development
- 21 in the county.

(d) The use of food and beverage tax revenues arising in part from the presence of the attractions identified in subsection (b)(2) to support tourism and economic development in the county permits governmental units in the county to diversify the revenue sources for which local government improvements and services are funded.

SECTION 2. IC 6-9-25-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:
Sec. 9.5. (a) This section applies to revenues from the county food and beverage tax received by the county after June 30, 1994.

(b) Money in the fund established under section 8 of this chapter shall be used by the county for the financing, construction, renovation, improvement, equipping, ~~operation~~, or maintenance of the following capital ~~expenditures~~: **improvements**:

(1) Sanitary sewers or wastewater treatment facilities that serve economic development purposes.

(2) Drainage or flood control facilities that serve economic development purposes.

(3) Road improvements used on an access road for an industrial park that serve economic development purposes.

(4) A covered horse show arena.

(5) A historic birthplace memorial.

(6) A historic gymnasium and community center in a town in the county with a population greater than two thousand (2,000) but less than two thousand four hundred (2,400).

(7) Main street renovation and picnic and park areas in a town in the county with a population greater than two thousand (2,000) but less than two thousand four hundred (2,400).

(8) A community park and cultural center.

(9) Projects for which the county decides after July 1, 1994, to:

(A) expend money in the fund established under section 8 of this chapter; or

(B) issue bonds or other obligations or enter into leases under section 11.5 of this chapter;

after the projects described in subdivisions (1) through (8) have been funded.

(10) An ambulance.

Money in the fund may not be used for the operating costs of any of the permissible projects listed in this section. In addition, the county may not ~~initiate a project~~ **issue bonds or enter into leases or other obligations** under this chapter after December 31, ~~2004~~: **2015**.

(c) The county capital improvements committee is established to make recommendations to the county fiscal body concerning the use of money in the fund established under section 8 of this chapter. The capital improvements committee consists of the following members:

(1) One (1) resident of the county representing each of the three (3) commissioner districts, appointed by the county executive. Not more than two (2) of the members appointed under this subdivision may be from the same political party.

(2) Two (2) residents of the county, appointed by the county fiscal body. The two (2) appointees may not be from the same political

party. One (1) appointee under this subdivision must be a resident of a town in the county with a population greater than two thousand (2,000) but less than two thousand four hundred (2,400). One (1) appointee under this subdivision must be a resident of a town in the county with a population greater than two thousand four hundred (2,400).

(3) Two (2) residents of the largest city in the county, appointed by the municipal executive. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in economic development.

(4) Two (2) residents of the largest city in the county, appointed by the municipal fiscal body. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in tourism.

(d) Except as provided in subsection (e), the term of a member appointed to the capital improvements committee under subsection (c) is four (4) years.

(e) The initial terms of office for the members appointed to the county capital improvements committee under subsection (c) are as follows:

(1) Of the members appointed under subsection (c)(1), one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for three (3) years, and one (1) member shall be appointed for four (4) years.

(2) Of the members appointed under subsection (c)(2), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(3) Of the members appointed under subsection (c)(3), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(4) Of the members appointed under subsection (c)(4), one (1) member shall be appointed for three (3) years and one (1) member shall be appointed for four (4) years.

(f) At the expiration of a term under subsection (e), the member whose term expired ~~shall~~ **may** be reappointed to the county capital improvements committee to fill the vacancy caused by the expiration.

(g) The capital improvements committee is abolished on January 1, ~~2005~~ **2016**.

SECTION 3. IC 6-9-25-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:

Sec. 10.5. (a) The county food and beverage tax council is established in the county. The membership of the county food and beverage tax council consists of the fiscal body of the county and the fiscal body of each municipality that lies either partly or entirely within the county.

(b) The county food and beverage tax council has a total of one hundred (100) votes. Every member of the county food and beverage tax council is allocated a percentage of the total one hundred (100) votes that may be cast. The percentage that a municipality in the county is allocated for a year equals the same percentage that the population of the municipality bears to the population of the county. The percentage that the county is allocated for a year equals the same percentage that the population of all areas of the county not located in a municipality

bears to the population of the county. In the case of a municipality that lies partly within the county, the allocation shall be based on the population of that portion of the municipality that lies within the county.

(c) Before January 2 of each year, the county auditor shall certify to each member of the food and beverage tax council the number of votes, rounded to the nearest one-hundredth (0.01), the member has for that year.

(d) The food and beverage tax imposed under this chapter remains in effect until the county food and beverage tax council adopts an ordinance to rescind the tax.

(e) An ordinance to rescind the food and beverage tax takes effect December 31 of the year in which the ordinance is adopted.

(f) The county food and beverage tax council may not rescind the food and beverage tax if there are bonds outstanding or leases or other obligations payable under this chapter.

(g) The county food and beverage tax council is abolished on January 1, ~~2005~~; **2016**.

SECTION 4. IC 6-9-25-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:
Sec. 11.5. (a) Until January 1, ~~2005~~; **2016**, the county may:

(1) use money in the fund established under section 8 of this chapter to pay all or part of the costs associated with the facilities described in section 9.5 of this chapter;

(2) issue bonds, enter into leases, or incur other obligations to ~~(1)~~ pay any costs associated with the facilities described in section 9.5 of this chapter;

~~(2)~~ (3) reimburse the county or any nonprofit corporation for any money advanced to pay those costs; or

~~(3)~~ (4) refund bonds issued or other obligations incurred under this chapter.

(b) Bonds or other obligations issued under this section:

(1) are payable ~~sotely~~ from money provided in this chapter, any other revenues available to the county, or any combination of these sources, in accordance with a pledge made under IC 5-1-14-4;

(2) must be issued in the manner prescribed by IC 36-2-6-18 through IC 36-2-6-20; and

(3) may, in the discretion of the county, be sold at a negotiated sale at a price to be determined by the county or in accordance with IC 5-1-11 and IC 5-3-1; and

(4) may be issued for a term not to exceed twenty (20) years, such term to include any refunding bonds issued to refund bonds originally issued under this section.

(c) Leases entered into under this section:

(1) may be for a term not to exceed fifty (50) years;

(2) may provide for payments from revenues under this chapter, any other revenues available to the county, or any combination of these sources;

(3) may provide that payments by the county to the lessor are required only to the extent and only for the time that the lessor is

1 able to provide the leased facilities in accordance with the lease;
2 (4) must be based upon the value of the facilities leased; and
3 (5) may not create a debt of the county for purposes of the
4 Constitution of the State of Indiana.

5 (d) A lease may be entered into by the county executive only after a
6 public hearing at which all interested parties are provided the
7 opportunity to be heard. After the public hearing, the executive may
8 approve the execution of the lease on behalf of the county only if the
9 executive finds that the service to be provided throughout the life of the
10 lease will serve the public purpose of the county and is in the best
11 interests of its residents. A lease approved by the executive must also
12 be approved by an ordinance of the county fiscal body.

13 (e) Upon execution of a lease under this section, and after approval
14 of the lease by the county fiscal body, the county executive shall
15 publish notice of the execution of the lease and the approval of the lease
16 in accordance with IC 5-3-1.

17 (f) An action to contest the validity of bonds issued or leases entered
18 into under this section must be brought within thirty (30) days after the
19 adoption of a bond ordinance or notice of the execution and approval
20 of the lease, as the case may be.

21 SECTION 5. **An emergency is declared for this act.**
 (Reference is to ESB 329 as printed March 25, 2005.)

Conference Committee Report
on
Engrossed Senate Bill 329

Signed by:

Senator Gard
Chairperson

Representative Saunders

Senator Craycraft

Representative Pflum

Senate Conferees

House Conferees